

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BACKERTOP LICENSING LLC,)
)
Plaintiff,) C.A. No. 1:22-cv-00573-CFC
v.)
)
AUGUST HOME, INC.,)
)
Defendant.)
)
BACKERTOP LICENSING LLC,)
)
Plaintiff,) C.A. No. 1:22-cv-0572-CFC
v.)
)
CANARY CONNECT, INC.,)
)
Defendant.)

Tuesday, August 1, 2023
10:00 a.m.
Hearing

844 King Street
Wilmington, Delaware

BEFORE: THE HONORABLE COLM F. CONNOLLY
United States District Court Judge

1 APPEARANCES:

2 CHONG LAW FIRM PA
3 BY: JIMMY CHONG, ESQ.

4 -and-

5 FINGER & SLANINA
6 BY: DAVID FINGER, ESQ.

7 Counsel for the Plaintiff

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P R O C E E D I N G S

(Proceedings commenced in the courtroom beginning at
10:00 a.m.)

THE COURT: Good morning. Please be seated.
All right. Mr. Finger.

MR. FINGER: Good morning, Your Honor. David
Finger on behalf of Backertop Licensing and Creekview, IP
Licensing.

Your Honor, we are presenting no witnesses this
morning. None of them have shown.

On Friday, we presented Your Honor with a
memorandum of authorities explaining why it is our
position that these proceedings should not be going
forward. Some, Your Honor is familiar with already from
the objection.

We also provided some additional authorities,
particularly in the context of bringing in witnesses from
over 100 miles away. We have a couple of U.S. Supreme
Court cases and a Third Circuit case which hold that Your
Honor cannot exercise inherent authority for something
that's prescribed by the Federal Rules.

Be that as it may, Your Honor, unless Your
Honor has any questions, I have no -- I'm happy to stand

1 on my papers and end.

2 **THE COURT:** Okay. So both Ms. LaPray and
3 Mr. LaPray are not here, correct?

4 **MR. FINGER:** Correct. And neither is any
5 representative of Backertop or Creekview.

6 **THE COURT:** Creekview?

7 **MR. FINGER:** Yes.

8 **THE COURT:** Okay. I didn't hear.

9 **MR. FINGER:** Apologize, Your Honor.

10 **THE COURT:** Okay. One of the things I'm
11 supposed to consider in crafting a remedy for a civil
12 contempt is the financial resources and the burden on the
13 party.

14 What can you tell me about, let's start with
15 Ms. LaPray. Do you know anything about what her salary is
16 as a paralegal?

17 **MR. FINGER:** I can't answer that question.
18 From what I glean, from what I've seen in this case so far
19 and my conversation with her, which was not on that
20 specific issue, is these are working people, not of great
21 means.

22 But again, I can't give Your Honor any document
23 or cite to any specific information to answer that.
24 That's solely my impression.

25 **THE COURT:** So you don't know anything about

1 her financial resources other than, I guess, what's been
2 on the record, which is she's a paralegal, and her husband
3 works for IP Edge, fair?

4 **MR. FINGER:** That's fair, Your Honor.

5 **THE COURT:** All right. How about with respect
6 to Mr. LaPray, what does he do for a living?

7 **THE WITNESS:** Again, I don't have that
8 information.

9 **THE COURT:** You have no information whatsoever?

10 **MR. FINGER:** I'm going to not say anything
11 because anything I say will be pure speculation.

12 **THE COURT:** Then you shouldn't say it. Okay.
13 So you don't know anything about the burden associated
14 with coming to court --

15 **MR. FINGER:** I do not.

16 **THE COURT:** -- that he would suffer; is that
17 right?

18 **MR. FINGER:** That's correct, Your Honor.

19 **THE COURT:** Okay. Anything else you wish to
20 say?

21 **MR. FINGER:** No, Your Honor. Thank you.

22 **THE COURT:** All right. What I'm going to do is
23 I will issue an order at some point. You've made this
24 filing on Friday.

25 **MR. FINGER:** Apology.

